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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,593	05/23/2001	Parag Pruthi	D8113-00021	9303
23122	7590	09/07/2007	EXAMINER	
RATNERPRESTIA			DUONG, DUC T	
P O BOX 980			ART UNIT	PAPER NUMBER
VALLEY FORGE, PA 19482-0980			2616	
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			09/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/863,593

Applicant(s)

PRUTHI ET AL.

Examiner

Duc T. Duong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5,9,11,16-18,25-28,30,34,79-82,84,85 and 91-93 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5,9,11,16,30-34,79-82,84,85,91 and 92 is/are allowed.
- 6) ☒ Claim(s) 17,25-27 and 93 is/are rejected.
- 7) ☒ Claim(s) 18 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) ✓
Paper No(s)/Mail Date <u>5/7/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The indicated allowability of claims 17, 18, 25-28, and 93 are withdrawn in view of the previously cited reference(s). Rejections based on the previously cited reference(s) follow.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 17, 25, 26, and 93 are rejected under 35 U.S.C. 102(e) as being anticipated by Fletcher et al (US Patent 6,321,264 B1).

Regarding to claim 17, Fletcher discloses a system 300 comprising means 208 for receiving first data from a first communication line (fig. 2 col. 7 lines 4-6); means 505 for segregating the first data into packets (fig. 5 col. 9 lines 3-13); means 505 for

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selecting packets based on respective type (col. 9 lines 13-15); means 525 for associating a respective index with each packet (col. 9 lines 41-45); means 530 for generating a statistic corresponding to packets received during each of a plurality of successive first time periods, the first time periods having a first duration value (fig. 5 col. 9 lines 48-51), the statistic including at least one quality of service value (col. 13 lines 45-50); means 550 for separately storing the generated statistics for each of the plurality of successive first time periods (fig. 5 col. 9 lines 51-58); and means 201 for generating a further statistic by aggregating the plurality of stored statistics (fig. 8 col. 13 lines 62-67 and col. 14 lines 1-8).

Regarding to claims 25 and 93, Fletcher discloses a system 300 comprising means 208 for receiving first data from a first communication line (fig. 2 col. 7 lines 4-6); means 505 for segregating the first data into packets (fig. 5 col. 9 lines 3-13); means 530 for generating a statistic corresponding to packets received during each of a plurality of successive first time periods, the first time periods having a first duration value (fig. 5 col. 9 lines 48-51); means 550 for separately storing the generated statistics for each of the plurality of successive first time periods (fig. 5 col. 9 lines 51-58); and means 201 for generating a further statistic by aggregating the plurality of stored statistics (fig. 8 col. 13 lines 62-67 and col. 14 lines 1-8); means 142 counting packets of each a plurality of packet types received during each of the successive first time periods (col. 3 lines 34-35); and means for displaying 205 the plurality of packet types and their corresponding counts (col. 7 lines 7-11) accumulated over a second time period (6-hour or 24-hour interval) greater than the first time period (30-min

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interval) in a first portion of a display area of a display device (col. 13 lines 62-67 and col. 14 lines 1-8).

Regarding to claim 26, Fletcher discloses the plurality of packet types are selectable by a user (col. 11 lines 55-64) and displaying statistics corresponding to packets of the selected packet type received during the second time period (col. 14 lines 18-26).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fletcher.

Regarding to claim 27, Fletcher discloses all the limitations with respect to claim 25, except for displaying the statistics of the plurality packet types in a plot. However, to arrange for displaying statistic in a plot would have been obvious to a person ordinary skill in the art since such plot is well known in the art.

Allowable Subject Matter

6. Claims 18 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 5, 9, 11, 16, 30-34, 79-82, 84, 85, 91, and 92 are allowed.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-F (9:00 AM-6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on 571-272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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WING CHAN 9/4/07
SUPERVISORY PATENT EXAMINER